



Comptroller General
of the United States

Washington, D.C. 20548

144741

Decision

Matter of: KB Industries

File: B-243946

Date: August 21, 1991

Kenneth W. Bray for the protester.
Maryann L. Grodin, Esq., Department of the Navy, for the agency.
Linda S. Lebowitz, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest is denied where agency properly awarded a purchase order to the firm which orally quoted the low price, despite protester's post-award allegation that the agency made a mistake in recording its oral price quote.

DECISION

KB Industries protests the award of a purchase order to Scienco Systems under request for quotations (RFQ) No. N60530-91-Q-C181, issued by the Department of the Navy for a quantity of 30,000 calcification prevention tablets.

We deny the protest.

On April 23, 1991, pursuant to the small purchase procedures of Federal Acquisition Regulation (FAR) § 13.000 et seq., the agency orally solicited price quotes from three prospective contractors, including KB Industries and Scienco Systems. On April 25, KB Industries orally quoted to the agency's contract specialist a price of \$0.79 per tablet for a total price of \$23,700. The contract specialist repeated and had KB Industries verify its quoted price; the contract specialist made notes of the conversation. After receiving all quotes, on April 25, the agency awarded a purchase order to Scienco Systems, the low, responsive and responsible firm, which quoted a price of \$0.77 per tablet for a total price of \$23,100.

On April 26, the agency informed KB Industries of the amount of the award to Scienco Systems. On April 29, 3 days after being notified of the award, KB Industries telefaxed to the

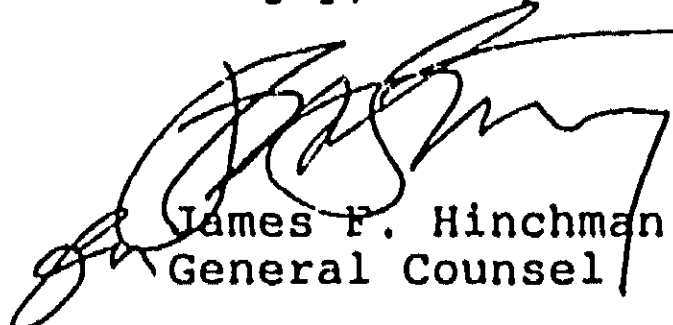
agency a confirmation, dated April 25, of its price quote.^{1/} In its post-award confirmation, KB Industries stated that its quoted price was \$0.75 per tablet for a total price of \$22,500. KB Industries filed this protest on May 8.

KB Industries argues that a mistake occurred in the recording of its oral price quote. Specifically, KB Industries argues that the agency's contract specialist incorrectly recorded its quoted price as \$0.79 per tablet instead of \$0.75 per tablet, as reflected in its post-award confirmation.

Here, KB Industries waited 3 days after being notified of the amount of the award to Scienco Systems essentially to allege a mistake in the recording of its oral price quote by the agency's contract specialist. Prior to award, when the contract specialist repeated and had KB Industries verify its quoted price, KB Industries never stated that its quoted price was anything other than \$0.79 per tablet. At the time of the award to Scienco Systems, the agency had no reason to believe that there was a mistake in its recording of KB Industries' oral price quote or that KB Industries later might assert such a mistake. In any event, there is no regulatory basis for a post-award claim of mistake by an unsuccessful firm. See American Modular Sys., Inc., B-231842, Oct. 4, 1988, 88-2 CPD ¶ 317.

Under these circumstances, the agency properly awarded the purchase order to Scienco Systems, the firm which the agency reasonably determined quoted the low price per tablet.

Accordingly, the protest is denied.


James F. Hinchman
General Counsel

^{1/} KB Industries admits that although its confirmation was dated April 25, it did not send the confirmation to the agency on that day. On May 1, KB Industries also mailed to the agency a copy of its telefaxed confirmation.